

Appendix Tab A

FILED
6/13/2017 5:16:13 PM
Donna Kay McKinney
Bexar County District Clerk
Accepted By: Brenda Carrillo

2017CI10867

CITPPS/SAC2 W/JD

CAUSE NO. _____

RICHARD BRETT FREDERKING

Plaintiff

VS.

THE CINCINNATI INSURANCE
COMPANY, INC.*Defendants*

IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

408TH JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

COMES NOW Richard Brett Frederking, complaining of The Cincinnati Insurance Company, Inc., and files this, his Original Petition against The Cincinnati Insurance Company, Inc. In support thereof, Plaintiff Richard Brett Frederking will respectfully show the Court as follows:

I. DISCOVERY CONTROL PLAN

1.1 Pursuant to Texas Rule of Civil Procedure 190.4, the discovery of this case is to be conducted under Discovery Control Plan Level 3.

II. PARTIES

2.1 Plaintiff, Richard Brett Frederking, ("Plaintiff Frederking") is a resident citizen of San Antonio, Bexar County, Texas.

2.2 Defendant, The Cincinnati Insurance Company, Inc., ("Defendant Cincinnati Insurance") is a foreign corporation with its principal place of business located at 6200 S. Gilmore Road, Fairfield, Ohio 45014 and no registered agent for service of process in this State. Pursuant to Texas Business Code Section 5.251, the Texas Secretary of State is thus an agent of this Defendant for purposes of service of process. Process should be served on The Cincinnati Insurance Company, Inc. by serving Roland Pablos, the Texas Secretary of State, at 1019

Brazos, Room 105, Austin, Texas 78701, to be forwarded to 6200 S. Gilmore Road, Fairfield, Ohio 45014.

III. JURISDICTION & VENUE

3.1 The Court has jurisdiction in this cause because the damages to Plaintiff Frederking are within the jurisdictional limits of the Court.

3.2 Pursuant to sections 15.001 and 15.002(a)(1) of the Texas Civil Practice and Remedies Code, this venue is proper because all or a substantial part of the events or omissions giving rise to this suit occurred in Bexar County, Texas. The venue is also proper because it best serves the convenience of the parties and witnesses, as well as the interests of justice.

3.3 Plaintiff Frederking has satisfied all conditions precedent to bringing this lawsuit.

3.4 Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff Frederking seeks declaratory relief and recovery of damages for monetary relief over \$200,000 but less than \$1,000,000.

IV. FACTS

4.1 On or about September 14, 2014, Plaintiff Frederking suffered serious personal injuries in a motor vehicle wreck caused by Carlos Xavier Sanchez. Mr. Sanchez was operating a vehicle owned by his employer, Advantage Plumbing Services, with his employer's permission at the time of the wreck. Plaintiff Frederking ultimately filed suit against both Mr. Sanchez and Advantage in Cause No. 2015-CI-060614, *Frederking v. Sanchez, et al.*, in the 224th District Court of Bexar County, Texas (the "Underlying Litigation") to recover for his injuries.

4.2 Advantage was the named insured under a Business Auto Coverage insurance policy, Policy No. EBA 013 38 68 ("the Policy"), issued by Defendant Cincinnati Insurance. The Policy was in full force and effect at all times relevant herein. Under the Policy's terms,

Defendant Cincinnati Insurance provided both Sanchez and Advantage a defense in the Underlying Litigation.

4.3 The Underlying Litigation ultimately proceeded to a jury trial and judgment in favor of Plaintiff Frederking that was signed on March 21, 2017. Under the terms of that judgment, Plaintiff Frederking was entitled to recover \$137,025 jointly and severally from Sanchez and Advantage, an additional \$207,550 from Sanchez, pre- and post-judgment interest, and costs. This judgment made Plaintiff Frederking a third-party beneficiary under the Policy issued by Defendant Cincinnati Insurance.

4.4 Advantage is a named insured under the Policy and Mr. Sanchez is an additional insured. As a third-party beneficiary under the Policy, Plaintiff Frederking has repeatedly demanded Defendant Cincinnati Insurance pay the full judgment owed him by Mr. Sanchez and Advantage. But Defendant Cincinnati Insurance refuses to pay any portion of the judgement as to Mr. Sanchez.

V. CAUSES OF ACTION

A. Breach of Contract.

5.1 Based upon the conduct described above, Defendant Cincinnati Insurance has breached the Policy and Plaintiff Frederking sues for all damages resulting from the breach of the Policy. These damages include, but are not limited to, the full amount of the judgment obtained against Defendant Cincinnati Insurance's named and additional insureds under the Policy. Plaintiff Frederking also sues for reasonable and necessary attorney's fees, expert witness fees, travel expenses, and all other incidental costs and expenses in pursuing this litigation against Defendant Cincinnati Insurance.

5.2 Plaintiff Frederking demanded payment of the Underlying Litigation judgment more than 30 days before filing this counterclaim but Defendant Cincinnati Insurance refused to

pay. Plaintiff Frederking sues for attorney's fees pursuant to section 38.001 et seq. of the Texas Civil Practice and Remedies Code.

5.3 All conditions precedent to bringing this claim have been performed or otherwise occurred.

B. Declaratory Relief.

5.4 Defendant Cincinnati Insurance is an insurer and Plaintiff Frederking obtained a judgment against Defendant Cincinnati Insurance's named and additional insureds under the Policy. Pursuant to Chapter 37 of the Texas Civil Practice and Remedies Code (the Declaratory Judgments Act), Plaintiff Frederking is a person interested under a written contract who may obtain a declaration of rights, status, or other legal relations thereunder.

5.5 Plaintiff Frederking seeks a declaration from this Court, among other things, that:

- a. Carlos Xavier Sanchez was operating a "covered vehicle" under the Policy with the permission of Advantage Plumbing Services at the time of the underlying wreck on September 14, 2014;
- b. Carlos Xavier Sanchez was a permissive user and additional insured under the Policy; and
- c. Defendant Cincinnati Insurance is contractually obligated to pay the judgment as to Carlos Xavier Sanchez in the Underlying Litigation.

Plaintiff Frederking further seeks declaratory relief as to any other relevant provision of the Policy that would preclude him from recovering the judgment owed to him by Carlos Xavier Sanchez from Defendant Cincinnati Insurance.

5.6 Plaintiff Frederking seeks costs and reasonable and necessary attorney's fees as are just.

VI. JURY DEMAND

6.1 Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Plaintiff Richard Brett Frederking, respectfully requests and demands a trial by jury.

VII. REQUESTS FOR DISCLOSURE

7.1 Pursuant to Rule 194, request is made that Defendant Cincinnati Insurance disclose, within fifty (50) days of service of this request, the information or material described in Texas Rule of Civil Procedure 194.2(a)-(l). Failure to timely respond shall constitute an abuse of discovery pursuant to Texas Rule of Civil Procedure 215.

VIII. RULE 193.7 NOTICE

8.1 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff Frederking, hereby gives actual notice to Defendant Cincinnati Insurance that any and all documents produced may be used against it at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff Richard Brett Frederking, prays that Defendant be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, Plaintiff recovers declaratory relief and damages in accordance with the evidence, costs of Court herein expended, and interest justly entitled under the law, and that Plaintiff Richard Brett Frederking be granted such other and further relief, both general and special, at law and in equity, to which he may be justly entitled.

[Signature block on subsequent page]

Respectfully submitted,

JIM S. ADLER & ASSOCIATES

By: Langdon "Trey" Smith
Langdon "Trey" Smith
State Bar No. 00797456
Michael Gomez
State Bar No. 24029578
3D/ INTERNATIONAL TOWER
1900 West Loop South, 20th Floor
Houston, Texas 77027
T: (713) 735-2114
F: (713) 781-2514

**ATTORNEYS FOR PLAINTIFF
RICHARD BRETT FREDERKING**

Appendix Tab B

CAUSE NO. 2015CI060614

RICHARD BRETT FREDERKING

Plaintiff

VS.

CARLOS XAVIER SANCHEZ, AND
ADVANTAGE PLUMBING SERVICES,
LTD*Defendants*§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

45th JUDICIAL DISTRICT

PLAINTIFF'S SECOND AMENDED PETITION

COMES NOW Richard Brett Frederking, complaining of Carlos Xavier Sanchez and Advantage Plumbing Services, LTD, Defendants, and in support thereof, Plaintiff Richard Brett Frederking, will show the Court as follows:

I. DISCOVERY CONTROL PLAN

1.1 Pursuant to Texas Rule of Civil Procedure 190.4, the discovery of this case is to be conducted under Discovery Control Plan Level 3.

II. PARTIES

2.1 Plaintiff Richard Brett Frederking, is a resident citizen of San Antonio, Bexar County, Texas.

2.2 Defendant Carlos Xavier Sanchez is an individual resident of the State of Texas who has been served and has properly filed an answer.

2.3 Defendant Advantage Plumbing Services, Ltd is a Domestic Limited Partnership Corporation company licensed by the State of Texas to do business in the State of Texas who has been served and properly filed an answer.

III. JURISDICTION & VENUE

3.1 The Court has jurisdiction in this cause since the damages to Plaintiff Richard Brett Frederking, are within the jurisdictional limits of the Court.

3.2 Pursuant to sections 15.001 and 15.002(a)(2) of the Texas Civil Practice and Remedies Code, this venue is proper because Defendant Carlos Xavier Sanchez is a resident of Bexar County, Texas. The venue is also proper because it best serves the convenience of the parties and witnesses, as well as the interests of justice.

3.3 Plaintiff Richard Brett Frederking has satisfied all conditions precedent to bringing this lawsuit.

3.4 Plaintiff Richard Brett Frederking did nothing to cause or contribute to this occurrence.

3.5 Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff seeks recovery of damages for monetary relief over \$200,000 but less than \$1,000,000. In the alternative, Plaintiff seeks recovery of damages for monetary relief in an amount over \$1,000,000.

IV. FACTS

4.1 On or about September 14, 2014, Plaintiff Richard Brett Frederking was in a vehicle traveling northbound on Roosevelt Ave., in San Antonio, Texas. At said time and place, Carlos Xavier Sanchez was traveling southbound on Roosevelt Ave., in a vehicle belonging to Advantage Plumbing Services, LTD, when suddenly and without warning Defendant driver Carlos Xavier Sanchez failed to yield right of way to Plaintiff when he attempted to make a left turn thus violently striking Plaintiff. As a result of Defendant Carlos Xavier Sanchez' negligence, Plaintiff sustained and suffered serious bodily injuries.

V. DEFENDANT ADVANTAGE PLUMBING SERVICES LTD

5.1 Defendant Advantage Plumbing Services, LTD was the owner of the vehicle driven by Defendant driver Carlos Xavier Sanchez. At all times material to this lawsuit, Defendant Carlos Xavier Sanchez, was an employee of Defendant Advantage Plumbing Services, LTD and was acting within the course and scope of his employment with Defendant Advantage Plumbing Services, LTD. Consequently, Defendant Advantage Plumbing Services, LTD is vicariously liable to Plaintiff Richard Brett Frederking, for the negligent conduct of Defendant Carlos Xavier Sanchez, under the theory of *respondeat superior*.

5.2 The independent conduct of Defendant Advantage Plumbing Services, LTD constitutes negligence as that term is known in law. Such negligent acts or omissions include, but are not limited to the following:

- a. hiring and/or retaining Defendant driver Carlos Xavier Sanchez whom it knew or should have known was an unlicensed, intoxicated, reckless and/or incompetent driver;
- b. failing to properly train Defendant driver Carlos Xavier Sanchez in the safe operation of motor vehicles;
- c. entrusting a vehicle, which Defendant Advantage Plumbing Services, LTD owned to Defendant driver Carlos Xavier Sanchez, for the purpose of operating it on the public streets and highways of Texas, when it knew or should have known that Defendant driver Carlos Xavier Sanchez was an unlicensed, intoxicated, reckless and/or incompetent driver;
- d. failing to properly supervise Defendant driver Carlos Xavier Sanchez' driving activities;
- e. failing to maintain the vehicle to the minimal standard of safety;
- f. failing to establish and enforce safety rules and regulations;
- g. failing to properly educate, instruct and supervise Carlos Xavier Sanchez
- h. in the performance of his duties;

- i. failing to adequately train, educate, or provide instructions and orders to Carlos Xavier Sanchez;
- j. failing to provide proper safety manuals and instructions to employees on how to be responsible for the safety of other drivers;
- k. failing to enforce and ensure compliance of established safety and operational rules and regulations for employees operating its equipment and vehicles; and/or

5.3 One, some, or all of the foregoing acts and/or omissions or others on the part of Defendant constituted negligence and negligence *per se*. Such negligence was a proximate cause of Richard Brett Frederking's injuries and damages which resulted serious in injuries. As a result of Defendant Advantage Plumbing Services, LTD. negligent entrustment of the vehicle to Defendant Sanchez, Defendant Advantage Plumbing Services, LTD is responsible for the negligent conduct of Defendant Sanchez.

VI. DEFENDANT CARLOS XAVIER SANCHEZ

6.1 The collision made the basis of this lawsuit resulted from the improper conduct of Defendant driver Carlos Xavier Sanchez. The conduct of this Defendant constituted negligence as that term is understood in law and such negligent conduct was a proximate cause of the occurrence, injuries and damages to Plaintiff Richard Brett Frederking, made the basis of this suit. This Defendant's negligent actions or omissions included, but are not limited to, one or more of the following non-exclusive particulars:

- a. in driving in the wrong lane of travel in violation of the Texas Transportation Code;
- b. failing to maintain a proper lookout by driving his vehicle carelessly in violation of the Texas Transportation Code;
- c. failing to yield right of way to Plaintiff in violation of the Texas Transportation Code;
- d. driving his vehicle recklessly in violation of the Texas Transportation Code;

- e. failing to maintain control of his vehicle in violation of the Texas Transportation Code;
- f. failing to take proper evasive action in violation of the Texas Transportation Code ;
- g. failing to operate his vehicle as a person of ordinary prudence would have in the same or similar circumstance;
- h. Operating a vehicle without a proper and valid Texas driver's license in violation of the Texas Transportation Code;
- i. Operating a vehicle while intoxicated in violation of the Texas Transportation Code.

VII. RESPONDEAT SUPERIOR

7.1 Defendant Advantage Plumbing Services, LTD was the owner of the vehicle driven by Carlos Xavier Sanchez. At all times material to this lawsuit, Carlos Xavier Sanchez was an employee of Defendant Advantage Plumbing Services, LTD and was acting within the course and scope of its employment with this Defendant. Consequently, Defendant Advantage Plumbing Services, LTD is vicariously liable to Plaintiff for the negligent conduct of Carlos Xavier Sanchez under the theory of respondeat superior.

VIII. DAMAGES TO RICHARD BRETT FREDERKING

8.1 As a result of Defendants' negligence, which caused the incident made the basis of this lawsuit as described in the preceding paragraphs, Plaintiff Richard Brett Frederking sustained significant injuries and damages in the past and which will, in all reasonable probability sustain additional damages in the future.

8.2 Plaintiff respectfully requests that the trier of fact determine the amount of damages and losses he has incurred in the past and which will, in all reasonable probability incur in the future, as well as the monetary value of these damages, which includes, but is not limited to:

- a. physical pain and mental anguish;
- b. loss of earning capacity;

- c. loss of wages;
- d. disfigurement;
- e. physical impairment; and
- f. medical care expenses.

8.3 Because of all of the above and foregoing, Plaintiff Richard Brett Frederking has suffered actual damages in excess of the minimum jurisdictional limits of the Court for which damages Plaintiff Richard Brett Frederking, now brings suit.

8.4 Plaintiff Richard Brett Frederking seeks both pre-judgment and post-judgment interest as allowed by law, all costs of the Court, and all other relief, whether general or special, at law and in equity, to which he may be justly entitled.

IX. GROSS NEGLIGENCE

9.1 Plaintiff contends that on the occasion in question, Defendants committed acts of omission and commission, which are described more carefully described above, which collectively and severally constituted gross negligence under Chapter 41 of the Texas Civil & Practice & Remedies Code. Defendants' conduct in this incident made the basis of this lawsuit was grossly negligent. Defendants' conduct involves an extreme degree of risk, which when viewed objectively from the standpoint of Defendants at the time of the occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendants had actual, subjective awareness of the risk involved but, nevertheless proceeded with conscious indifference to the rights, safety and welfare of others. Plaintiff sues for punitive damages.

X. JURY DEMAND

10.1 Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Plaintiff Richard Brett Frederking, respectfully requests and demands a trial by jury.

XI. REQUESTS FOR DISCLOSURE

11.1 Pursuant to Rule 194, request is made that Defendants disclose, within fifty (50) days of service of this request, the information or material described in Texas Rule of Civil Procedure 194.2(a)-(l). Failure to timely respond shall constitute an abuse of discovery pursuant to Texas Rule of Civil Procedure 215.

XII. RULE 193.7 NOTICE

12.1 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff Richard Brett Frederking, hereby gives actual notice to Defendants that any and all documents produced may be used against the producing Defendants at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff Richard Brett Frederking, prays that Defendants be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, Plaintiff Richard Brett Frederking recovers damages, jointly and severally against Defendants, in accordance with the evidence, costs of Court herein expended, interest justly entitled under the law, and that Plaintiff Richard Brett Frederking be granted such other and further relief, both general and special, at law and in equity, to which Plaintiff Richard Brett Frederking may be justly entitled.

Respectfully submitted,

JIM S. ADLER & ASSOCIATES

By: Langdon "Trey" Smith
Langdon "Trey" Smith
State Bar No. 00797456
Michael Gomez
State Bar No. 24029578
3D/ INTERNATIONAL TOWER
1900 West Loop South, 20th Floor
Houston, Texas 77027
T: (713) 735-2114
F: (713) 781-2514

**ATTORNEYS FOR PLAINTIFF
RICHARD BRETT FREDERKING**

CERTIFICATE OF SERVICE

The undersigned attorney certifies that a true and correct copy of the above and foregoing instrument has been forwarded to all known counsel of record as listed below by certified mail, return receipt requested, and/or via hand delivery, and/or via facsimile, on this the 28th day of October, 2016.

Via Facsimile: 210.377.1065

Mr. Edward L. Osuna
CURNEY, FARMER, HOUSE & OSUNA, P.C.
411 Heimer Road
San Antonio, Texas 78232-4854
Attorneys for Defendant Carlos Xavier Sanchez

Via Facsimile: 512.474.8582

Mr. David E. Chamberlain
CHAMBERLAIN & MCHANEY
301 Congress Avenue, 21st Floor
Austin, Texas 78701
Attorneys for Defendant Advantage Plumbing Services, Inc.

Langdon "Trey" Smith
Langdon "Trey" Smith

Appendix Tab C

GERARD C. RICKHOFF



DONNA KAY MCKINNEY

COUNTY CLERK & DISTRICT CLERK
COURT RECORDS SEARCH

Case #2017CI10867

Name: RICHARD BRETT FREDERKING

Date Filed : 06/13/2017

Case Status : PENDING

Litigant Type : PLAINTIFF

Court : 408

Docket Type : OTHER CONTRACT

Business Name :

Style : RICHARD B FREDERKING

Style (2) : vs THE CINCINNATI INSURANCE COMPANY INC

Case History

Currently viewing 1 through 5 of 5 records

Sequence	Date Filed	Description
P00004	7/14/2017	REQUEST FOR COPY OF PETITION
S00001	6/30/2017	CITATION THE CINCINNATI INSURANCE COMPANY INC ISSUED: 6/30/2017
P00003	6/13/2017	SERVICE ASSIGNED TO CLERK 2
P00002	6/13/2017	JURY FEE PAID
P00001	6/13/2017	PETITION WITH JURY DEMAND

Appendix Tab D

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Richard Brett Frederking

DEFENDANTS

The Cincinnati Insurance Company

(b) County of Residence of First Listed Plaintiff Bexar County, Texas
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Foreign Corporation
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Langdon Trey Smith/Jim S. Adler & Assoc.
1900 West Loop South, 20th Floor, Houston, TX 77027

Attorneys (If Known)
Marc Fanning/George Lankford
Fanning Harper Martinson Brandt & Kutchin PC
4849 Greenville Ave., Suite 1300, Dallas, TX 75206

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §1332

Brief description of cause:

Plaintiff seeks determination of rights under a Business Auto Coverage insurance policy

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/18/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Appendix Tab E

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Supplement to JS 44 Civil Cover Sheet
Cases Removed from State District Court

This form must be filed with the Clerk's Office no later than the **first business day** following the filing of the Notice of Removal. Additional sheets may be used as necessary.

The attorney of record for the removing party **MUST** sign this form.

STATE COURT INFORMATION:

1. Please identify the court from which the case is being removed; the case number; and the complete style of the case.

Cause No. 2017CI10867; 408th JDC, Bexar County, Texas
Richard Brett Frederking v. The Cincinnati Insurance Company, Inc.

2. Was jury demand made in State Court? Yes ☒ No ☐

If yes, by which party and on what date?

Plaintiff Richard Brett Frederking

06/13/2017

Party Name

Date

STATE COURT INFORMATION:

1. List all plaintiffs, defendants, and intervenors still remaining in the case. Also, please list the attorney(s) of record for each party named and include the attorney's firm name, correct mailing address, telephone number, and fax number (including area codes).

Richard Brett Frederking - Plaintiff
Trey Smith, Attorney of Record for Plaintiff
Jim S. Adler & Associates
3D/International Tower, 1900 West Loop South, 20th Floor, Houston, TX 77027
T: 713-735-2114; F: 713-781-2514

The Cincinnati Insurance Company, Inc. - Defendant
George Lankford, Attorney of Record for Defendant
Fanning, Harper, Martinson, Brandt & Kutchin, PC
Two Energy Square, 4849 Greenville Ave., Suite 1300, Dallas, TX 75206
T: 214-369-1300
F: 214-987-9649

2. List all parties that have not been served at the time of the removal, and the reason(s) for non-service.

N/A

3. List all parties that have been non-suited, dismissed, or terminated, and the reason(s) for their removal from the case.

N/A

COUNTERCLAIMS, CROSS-CLAIMS, and/or THIRD-PARTY CLAIMS:

1. List separately each counterclaim, cross-claim, or third-party claim still remaining in the case and designate the nature of each such claim. For each counterclaim, cross-claim, or third-party claim, include all plaintiffs, defendants, and intervenors still remaining in the case. Also, please list the attorney(s) of record for each party named and include the attorney's firm name, correct mailing address, telephone number, and fax number (including area codes).

N/A

VERIFICATION:



Attorney for Removing Party

Jul 18, 2017

Date

Defendant, The Cincinnati Insurance Company, Inc.

Party/Parties

Appendix Tab F

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

RICHARD BRETT FREDERKING,

Plaintiff,

vs.

**THE CINCINNATI INSURANCE
COMPANY**

Defendant.

§
§
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§
§
§
§
§
§
§

Cause No. _____

**DEFENDANT THE CINCINNATI INSURANCE COMPANY'S
CORPORATE DISCLOSURE STATEMENT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, The Cincinnati Insurance Company, (hereinafter "Cincinnati"), Defendant herein, and makes and files this its Corporate Disclosure Statement pursuant to FRCP 7.1, and would respectfully show the following:

I.

1. The Cincinnati Insurance Company is an Ohio Corporation, with its principal place of business in Ohio.

2. The Cincinnati Insurance Company's parent company is Cincinnati Financial Corporation. No publicly-held company owns more than 10% of The Cincinnati Insurance Company's stock.

WHEREFORE, PREMISES CONSIDERED, Defendant Cincinnati respectfully requests the Court to take note of this its filing of its Corporate Disclosure Statement in compliance with FRCP 7.1, and requests such other and further relief to which it may show itself to be justly entitled.

Respectfully submitted,

/s/ George L. Lankford

GEORGE L. LANKFORD

Attorney of Record

State Bar No. 11934800

MARC H. FANNING

State Bar No. 06805400

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4849 Greenville Ave., Suite 1300

Dallas, Texas 75206

(214) 369-1300

(214) 987-9649 fax

**ATTORNEYS FOR DEFENDANT
THE CINCINNATI INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

This is to certify that on the 18th day of July, 2017, I electronically filed the foregoing document with the clerk of the Court for the United States District Court, Western District of Texas, using the electronic case filing system of the Court, and that it reported that it was delivered to all attorneys of record. In addition, service of the foregoing document was made via certified mail, return receipt requested, to:

Plaintiff Richard Brett Frederking
c/o Langdon "Trey" Smith, Attorney of Record
Jim S. Adler & Associates
1900 West Loop South, 20th Floor
Houston, Texas 77027
(713) 735-2114
(713) 781-2514 Fax

/s/ George L. Lankford

GEORGE L. LANKFORD

Appendix Tab G

CAUSE NO. 2017CI10867

RICHARD BRETT FREDERKING,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
vs.	§	408TH JUDICIAL DISTRICT
	§	
THE CINCINNATI INSURANCE	§	
COMPANY, INC.	§	
	§	
<i>Defendant.</i>	§	BEXAR COUNTY, TEXAS

DEFENDANT'S NOTICE OF FILING NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, The Cincinnati Insurance Company, Defendant in the above-entitled action, and hereby gives notice to this Court that, pursuant to pertinent Federal law, Defendant has filed their Notice of Removal to the United States District Court for the Western District of Texas, San Antonio Division, thereby removing this cause to that Court. A true and correct copy of that Notice of Removal (without Appendix) is attached hereto as Exhibit "A" and incorporated herein as if fully set forth.

Respectfully submitted,

/s/ George L. Lankford

GEORGE L. LANKFORD

Attorney of Record

State Bar No. 11934800

MARC H. FANNING

State Bar No. 06805400

FANNING HARPER MARTINSON

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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that on the 18th day of July, 2017, a true and correct copy of the foregoing instrument has been served on all parties of record, in compliance with Rule 21a of the Texas Rules of Civil Procedure.

/s/ George L. Lankford
GEORGE L. LANKFORD